In the High Court of Punjab and Haryana, Chandigarh.

F.A.O. No.3216 of 2007

Date of Decision: 4.10.2007.

Mohinder Kumar

…Appellant.

Versus

Mohinder Singh and Others

…Respondents.

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr.Ajit Atri,Advocate
for the appellant.

Mr.Jitender Nara, Advocate
for respondent No.1.

Mr.Maharaj Kumar, Advocate
for respondent No.2.

RAJESH BINDAL, J.

The challenge in the present appeal filed by the owner of the vehicle is to the award passed by the Motor Accident Claims Tribunal, Jhajjar, (for short "the Tribunal") whereby the liability for satisfaction of the award has been put on the appellant as well as the driver of the vehicle (respondent No.2).

The only contention raised in the appeal is that even though admittedly it was vehicle No. HR-37-2787, which was owned by the appellant and involved in the accident, however, due to clerical error, the respondent No.1-claimant mentioned the vehicle No. HR-37-2784 in his petition. It was only on that account that the award was passed against the appellant as no insurance policy for that vehicle number was produced on record. Otherwise,

insurance policy for vehicle No. HR-37-2787 was placed on record.

In fact, after investigation in the FIR, the vehicle No. HR-37-2787 was impounded and was released on sapurdari. It has also come on record that even challan for prosecuting driver had also been filed with regard to vehicle No. HR-37-2787 and the driver is facing trial for the same.

Once, admittedly, vehicle No. HR-37-2787 was involved in the accident, which is owned by the appellant and is insured with the respondent No.3-Insurance Company, and the insurance policy regarding that vehicle had already been proved on record, the avoidable error has occurred in fixing the liability of the owner and driver because correct facts were not brought on record by the parties regarding the vehicle number. No one has appeared for Insurance Company to dispute these facts despite service.

Accordingly, I deem it proper to set aside the award passed by the learned Tribunal only to the extent of fixing the liability and remand the case back to the learned Tribunal to decide the same afresh, after considering the fact that it was vehicle No. HR-37-2787 which was involved in the accident and the insurance policy whereof is on record. Under these circumstances, on whom the liability for satisfaction of the award is to be put. The parties, through their learned counsels, are directed to appear before the learned Tribunal on October 31, 2007. The Insurance Company, which had remained unrepresented before this Court, despite service, be served by the learned Tribunal, for the date to be fixed by it.

The appeal is disposed of in the manner narrated above.

(Rajesh Bindal)
Judge

October 4, 2007
"DK"